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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,986	04/03/2000	Shea Michael	EX-2DC4	4687

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EXAMINER

RICHMAN, GLENN E

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/541,986

Applicant(s)

MICHAEL, SHEA

Examiner

Glenn Richman

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-22, 25-47, 49-56, 58-62, 64-74, 76-78, 80-83, 85 and 86 is/are pending in the application.
- 4a) Of the above claim(s) 21, 22, 25-28, 33-38 and 50-56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20, 29-32, 39-47, 49, 58-62, 64-74, 76-78, 80-83, 85 and 86 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/10/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 21, 22, 25-28, 33-38, 50-56 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/6/06.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20, 29-32, 39-42, 46, 47, 64, are rejected under 35 U.S.C. 103(a) as being unpatentable over Oosthuizen.

Oosthuizen contacting a remote computer from the exercise apparatus in response to an input to the exercise apparatus (col. 5, lines 22-38).

Oosthuizen does not specifically disclose receiving at the exercise apparatus advertisements transmitted from the contacted remote computer. However, Oosthuizen discloses the data associated with the remote computer may be displayed on a TV set (col. 6, lines 53 – et seq.). It would therefore be obvious that advertisements are also displayed while the user exercises.

Oosthuizen further discloses receiving at the exercise apparatus advertisements transmitted from the contacted remote computer (col. 6, lines 53 – et seq.), generating exercise data relating to the exerciser's exercise on the exercise apparatus (col. 8, lines 37 – et seq.); and providing a display of information on a display device of the exercise apparatus while the exerciser exercises, the display comprising both the exercise data and the advertisements received from the contacted remote computer (col. 6, lines 53 – et seq., col. 8, lines 37 – et seq.), the exercise data comprises elapsed exercise time (col. 3, lines 39-43), the exercise data comprises exercise difficulty level (col. 3, lines 39-43); the exercise data comprises a graphical profile of exercise level versus time.(fig. 5), the remote computer is contacted using contact data for the remote computer (col. 5, lines 22 – et seq.), contacting a computer over the communication link using contact data for the computer (col. 5, lines 22 – et seq.), receiving at the exercise apparatus advertisements transmitted over the communication link from the contacted computer (col. 5, lines 22 – et seq.),and displaying the advertisements received from the contacted computer on a display device of the exercise apparatus while the exerciser exercises (col. 6, lines 53 – et seq.).

Oosthuizen does not specifically disclose the display of advertisements changes in response to an input from the exerciser. However, as an exerciser changes channels, it is obvious the advertisements would change in response thereto.

Oosthuizen does not specifically disclose the display of advertisements changes periodically. However, the exerciser could periodically change channels, thereby changing the advertisements periodically.

Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over in Oosthuizen view of Openiano.

Oosthuizen does not disclose the communication link is connected to at least one other exercise apparatus.

Openiano discloses a communication link connected to multiple exercise apparatus.

It would have been obvious to us multiple exercise devices, as it is well known as taught by Openiano, for providing multiple exercise choices to a user.

Claim 44, 45 rejected under 35 U.S.C. 103(a) as being unpatentable over in Oosthuizen view of Koch.

Oosthuizen does not disclose the advertisements are displayed on a first portion of the display device and the method further comprises: displaying exercise-related data on a second portion of the display device of the exercise apparatus while the exerciser exercises.

Koch discloses displaying exercise related data, in conjunction with a TV broadcast, on a second portion of a display device (col. 6, lines 33 – et seq.).

It would have been obvious to use Koch's display device with Oosthuizen s as it is well known, as taught by Koch, to have a split screen display, to display exercise data as well as a broadcast.

Oosthuizen discloses the exercise-related data comprises one or more of exercise time, exercise level and number of calories burned time (col. 3, lines 39-43).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 49, 58-60, 64, 67-74, 76-78 are rejected under 35 U.S.C. 102(e) as being anticipated by Abbondanza.

Abbondanza discloses receiving at the exercise apparatus advertisements transmitted from a computer connected to the communication link (col. 11, lines 46 – et seq.); storing the received advertisements (col. 11, lines 46 – et seq.); and displaying the stored advertisements on a display device of the exercise apparatus while the exerciser exercises (col. 11, lines 46 – et seq.).

As for claim 58, 64, 67-74, 76-78, Abbondanza discloses receiving at the exercise apparatus advertisements transmitted from a computer (col. 11, lines 46 – et

seq.); displaying the advertisements received from the computer on a display device of the exercise apparatus while an exerciser exercises (col. 11, lines 46 – et seq.); and transmitting data from the exercise apparatus to a different computer (col. 14, lines 20 – et seq.), the data transmitted to the different computer comprises exercise apparatus use data (col. 14, lines 20 –et seq.), the data transmitted to the different computer comprises exercise program selection data (col. 14, lines 20 –et seq.), wherein the advertisements are transmitted from the computer to an intermediate processor-controlled device and the advertisements are received at the exercise apparatus from the intermediate processor- controlled device (col. 11, lines 46 – et seq.); receiving exercise apparatus control data from the computer and using the exercise apparatus control data to control the exercise apparatus while the exerciser exercises (abstract)

Claim 61, 62, 65, 66, 80-83, 85, 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over in Abbondanza view of Carlin.

Abbondanza discloses the advertisements are displayed on a first portion of the display device (col. 11, lines 46 – et seq.);.

Abbondanza does not disclose displaying exercise-related data on a second portion of the display device of the exercise apparatus while the exerciser exercises.

Carlin discloses displaying exercise related data, in conjunction with a TV broadcast, on a second portion of a display device (550).

It would have been obvious to use Carlin's display device with Abbondanza's. as it is well known, as taught by Carlin, to have a split screen display, to display exercise data as well as a broadcast.

Abbondanza further discloses the exercise-related data comprises one or more of exercise time, exercise level and number of calories burned (552).


Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Glenn Richman
Primary Examiner
Art Unit 3764